

Senate Bill No. 1459

Passed the Senate June 10, 2002

Secretary of the Senate

Passed the Assembly August 19, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 6126 of the Business and Professions Code, relating to the practice of law.

LEGISLATIVE COUNSEL'S DIGEST

SB 1459, Romero. Practice of law.

Existing law provides that a person who practices law or holds himself or herself out as practicing or entitled to practice law is guilty of a misdemeanor if he or she is not an active member of the State Bar.

This bill would exempt from this provision a person who was authorized, pursuant to statute or court rule, to practice law in the state at the time he or she performed the act. The bill would also provide that the misdemeanor is punishable by up to one year in a county jail, or a fine of \$1,000, or both that fine and imprisonment. For a subsequent conviction, the bill would require confinement in a county jail for at least 90 days, except under specified circumstances, and would require that the court state the reasons for any lesser sentencing on the record.

Existing law provides that a person who holds himself or herself out as practicing or entitled to practice law is guilty of a crime punishable by imprisonment in the state prison or county jail if he or she has been (1) involuntarily enrolled as an inactive member of the State Bar, (2) suspended from membership from the State Bar, (3) disbarred, or (4) has resigned from the State Bar with charges pending.

This bill would provide that the penalties also apply if a person meeting that criteria practices or attempts to practice law.

Existing law provides that the willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court, as specified, constitutes a crime punishable by imprisonment in the state prison or county jail.

This bill would make all of the above penalties cumulative to each other and to any other remedies or penalties provided by law.

Because this bill would expand certain crimes to include practicing or attempting to practice law, it would impose a state-mandated local program.



The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 6126 of the Business and Professions Code is amended to read:

6126. (a) Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to one thousand dollars (\$1,000), or by both that fine and imprisonment. Upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a sentence of less than 90 days for a second or subsequent conviction under this subdivision, the court shall state the reasons for its sentencing choice on the record.

(b) Any person who has been involuntarily enrolled as an inactive member of the State Bar, or has been suspended from membership from the State Bar, or has been disbarred, or has resigned from the State Bar with charges pending, and thereafter practices or attempts to practice law, advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or county jail. However, any person who has been involuntarily enrolled as an inactive member of the State Bar pursuant to paragraph (1) of subdivision (e) of Section 6007 and who knowingly thereafter practices or attempts to practice law, or advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or county jail.



(c) The willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court to comply with Rule 955, constitutes a crime punishable by imprisonment in the state prison or county jail.

(d) The penalties provided in this section are cumulative to each other and to any other remedies or penalties provided by law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2002

Governor

